

Decision **PROPOSED DECISION OF ALJ MILES** (Mailed //2023)

**BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA**

Application of Atlantis Utility, Inc.  
(U7413C) for Registration as an  
Interexchange Carrier Telephone  
Corporation Pursuant to the Provisions  
of Public Utilities Code Section 1013.

Application 22-02-012

**DECISION GRANTING ATLANTIS UTILITY, INCORPORATED  
A CERTIFICATE OF PUBLIC CONVENIENCE AND  
NECESSITY TO PROVIDE RESOLD  
INTEREXCHANGE SERVICES**

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**DECISION GRANTING ATLANTIS UTILITY, INCORPORATED  
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**Summary**

Pursuant to Public Utilities Code Section 1001, the California Public Utilities Commission (Commission) grants Atlantis Utility, Inc. (Atlantis) a certificate of public convenience and necessity to provide resold interexchange service in California subject to the terms and conditions set forth in the Ordering Paragraphs.

Atlantis must pay all public purpose program surcharges owed for prior provision of interconnected VoIP services in California and pay 10 percent interest for late remittance of surcharges accrued prior to its application for a registration. Atlantis' licensing obligations may be modified by the Commission in its pending Rulemaking 22-08-008.

This proceeding is closed.

**1. Background**

On February 11, 2022, Atlantis Utility, Inc. (Atlantis or Applicant), a corporation authorized to do business in California, submitted an application for registration as an interexchange telephone corporation, authorized to provide resold interexchange services in California.<sup>1</sup> Atlantis proposes to offer resold interconnected Voice over Internet Protocol (VoIP) services as well as non-regulated services, such as telecommunications equipment installation and

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<sup>1</sup> Although its application was filed pursuant to Public Utilities (Pub. Util.) Code Section 1013, an expedited and ministerial registration process, the Commission's Communications Division staff determined it did not qualify for the registration process. The resulting assignment to an Administrative Law Judge (ALJ) removed it from the registration track. It has therefore been evaluated as a certificate of public convenience and necessity (CPCN) under Pub. Util. Code Section 1001.

technical support, to small business customers. Atlantis may also offer internet access services.

Atlantis' place of business is located at 1445 Donlan Street, Unit 14, Ventura, California 93003.

In its review of the application, Commission staff determined that Atlantis was not qualified to use the simplified registration process because it had been operating as an interconnected VoIP provider in California since April 2021.<sup>2</sup> Additionally, Atlantis had earned intrastate revenue from its customers prior to filing this application.

### **1.1. Procedural Background**

On March 17, 2022, the application appeared on the Commission's Daily Calendar. There were no protests to this application.

On July 28, 2022, the ALJ issued a Ruling Setting Remote prehearing conference (PHC). On September 29, 2022, the ALJ issued a Ruling Requiring Additional Documentation. On October 14, 2022, the Applicant filed its Response to ALJ's Ruling Requiring Additional Documentation, along with a Motion to File Under Seal for its Response to Question Number 1 (as contained in Attachments 1 and 2 of Applicant's Response). The Commission held a PHC for this proceeding on August 17, 2022. On December 7, 2022, the assigned Commissioner issued a Scoping Ruling.

On January 17, 2023, the assigned ALJ issued a ruling to request additional information which Atlantis provided on January 19, 2023. On March 22, 2023 and again on June 23, 2023, the assigned ALJ issued a ruling to request

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<sup>2</sup> On May 9, 2022, Atlantis submitted responses to questions which informed Commission staff that Atlantis has been offering resold interconnected VoIP services. On May 27, 2022, Atlantis submitted responses to follow up questions from Commission staff and stated that it began offering these services in April 2021.

additional information, which Atlantis provided on April 5, 2023 and July 6, respectively.

## **2. Submission Date**

This matter was submitted on July 10, 2023 upon Atlantis' filing of its response to the ALJ inquiry.

## **3. Jurisdiction**

The Commission has broad jurisdiction over "public utilities," as defined in Pub. Util. Code Section 216. California's constitution extends the Commission's jurisdiction to companies engaged in "the transmission of telephone and telegraph messages," which includes both public utility services and facilities.<sup>3</sup> The Commission classifies entities providing two-way voice communications service for compensation within California as "telephone corporations"<sup>4</sup> and regulates them as public utilities.<sup>5,6</sup>

As part of its regulatory authority over "telephone corporations," the Commission authorizes certificates of public convenience and necessity to "telephone corporations" seeking to construct a "line, plant, or system, or any extension thereof" in California.<sup>7</sup> Pub. Util. Code Section 233 defines a "telephone line" to include "all conduits, ducts, poles, wires, cables, instruments, and appliances, and other real estate, fixtures, and personal property owned or controlled, operated, or managed in connection with or to facilitate communication by telephone, whether such communication is had with or

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<sup>3</sup> See D.20-07-011, at 14-15, citing *See* Cal. Const., Art. XII, §§ 1-6; Pub. Util. Code § 701.

<sup>4</sup> Pub. Util. Code §§ 216, 233, 234; D.22-10-021 at 68.;

<sup>5</sup> Pub. Util. Code § 216(a).

<sup>6</sup> Telephone corporations are required to file annual affiliate transaction reports and pay surcharges and user fees.

<sup>7</sup> Pub. Util. Code § 1001.

without the use of transmission wires.” This includes services delivered over any technology, including but not limited to, traditional copper lines, coaxial cable, fiber optic cable, and mobile or fixed wireless radios.

Providers of interconnected VoIP service are telephone corporations subject to the Commission’s jurisdiction.<sup>8</sup> In 2021, the Commission directed interconnected VoIP carriers operating in California to apply for either a registration pursuant to Pub. Util. Code Section 1013 or a Certificate of Public Convenience and Necessity pursuant to Pub. Util. Code Section 1001. The Commission is currently considering the licensing obligations for interconnected VoIP carriers in Rulemaking (R.) 22-08-008.

Atlantis proposes to offer resold interconnected VoIP services as well as non-regulated services, such as telecommunications equipment installation and technical support, to small business customers. Atlantis may also offer internet access services. Atlantis is a telephone corporation and a public utility subject to the Commission’s jurisdiction.

#### **4. California Environmental Quality Act (CEQA)**

Pursuant to the CEQA<sup>9</sup> and Rule 2.4 of the Commission’s Rules of Practice and Procedure (Rules), the Commission acts as the designated lead agency to consider the environmental consequences of projects that are subject to the Commission’s approval to determine any potential environmental impacts, to avoid adverse effects, investigate alternatives, and ensure that any affected environmental is restored or otherwise mitigated to the fullest extent possible under CEQA. Since Atlantis states that it does not intend to construct any facilities, it can be seen with certainty that there is no possibility that granting

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<sup>8</sup> Pub. Util. Code §§ 216, 233, 234; D.22-10-021 at 68, citing R.22-08-008.

<sup>9</sup> Public Resources Code § 21000 *et seq.*

this application will have an adverse impact upon the environment.<sup>10</sup> Before it can construct facilities, including equipment to be installed in existing buildings or structures, Atlantis must file for additional authority, and submit to any necessary CEQA review.

## **5. Financial Qualifications**

To be granted a CPCN for authority to provide resold interexchange services, an applicant must demonstrate that it has a minimum of \$25,000 cash or cash equivalent, reasonably liquid and readily available to meet the firm's start-up expenses.<sup>11</sup> In confidential financial information filed under seal in response to an ALJ Ruling dated September 29, 2022, Atlantis provided documentation that it has at least \$25,000 that is reasonably liquid and available, it has demonstrated that it has sufficient funds to meet its start-up expenses and has fulfilled this requirement. Atlantis's financial documentation will be subject to verification and review by the Commission for one year to ensure that such funds are available. In addition to demonstrating financial fitness, Atlantis must also demonstrate it has an additional \$25,000 or that an amount equal to the deposit required by AT&T California, Frontier California, Frontier Communications, and Consolidated Communications would be available to Atlantis for one year following certification.<sup>12</sup> Atlantis provided documentation

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<sup>10</sup> See August 17, 2022 Transcript of (PHC Transcript) at 7, lines 17-28.

<sup>11</sup> The financial requirement for Competitive Local Exchange Carriers (CLEC) is contained in D.95-12-056, Appendix C. The financial requirement for Non-Dominant Interexchange Carriers (NDIEC) is contained in D.91-10-041.

<sup>12</sup> The requirement for Competitive Local Carrier (CLC) applicants to demonstrate that they have additional financial resources to meet any deposits required by underlying Local Exchange Carriers (LEC) and/or IECs is set forth in D.95-12-056, Appendix C. For NDIECs, the requirement is found in D.93-05-010.

that it has at least \$25,000 that is reasonably liquid and available, to meet such deposits if required.

## **6. Technical Qualifications**

To be granted a CPCN for authority to provide interexchange service, an applicant must make a reasonable showing of managerial and technical expertise in telecommunications or a related business.<sup>13</sup> Atlantis supplied biographical information on its management in Exhibit D to its application that demonstrates it has sufficient expertise and training to operate as a telecommunications provider.

In its application, Atlantis verified that no one associated with or employed by Atlantis as an affiliate, officer, director, partner, or owner of more than 10 percent of Atlantis, or anyone acting in a management capacity for Atlantis:

“held one of these positions with a company that filed for bankruptcy; (b) been personally found liable, or held one of these positions with a company that has been found liable, for fraud, dishonesty, failure to disclose, or misrepresentations to consumers or others; (c) been convicted of a felony; (d) been (to his/her knowledge) the subject of a criminal referral by judge or public agency; (e) had a telecommunications license or operating authority denied, suspended, revoked, or limited in any jurisdiction; (f) personally entered into a settlement, or held one of these positions with a company that has entered into settlement of criminal or civil claims involving violations of [Sections] 17000 *et seq.*, [Sections] 17200 *et seq.*, or [Sections] 17500 *et seq.* of the California Business & Professions Code, or of any other statute, regulation, or decisional law relating to fraud, dishonesty, failure to disclose, or misrepresentations to consumers or others; or (g) been found to have violated any statute, law, or rule pertaining to public

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<sup>13</sup> D.95-12-056 at Appendix C, Rule 4.A.



utilities or other regulated industries; or (h) entered into any settlement agreements or made any voluntary payments or agreed to any other type of monetary forfeitures in resolution of any action by any regulatory body, agency, or attorney general.”<sup>14</sup>

Also, to the best of Atlantis’ knowledge, neither Atlantis, or any affiliate, officer, director, partner, nor owner of more than 10 percent of Atlantis, or any person acting in such capacity whether or not formally appointed, is being, or has been investigated by the Federal Communications Commission or any law enforcement or regulatory agency for failure to comply with any law, rule or order.<sup>15</sup>

For the foregoing reasons, this decision finds that Atlantis is in compliance with the requirements of D.13-05-035.

## **7. Tariffs**

Atlantis requests detariffed status and may be exempt from the requirement to file tariffs provided Atlantis complies with the consumer protection rules identified in D.98-08-031. Detariffed status is not available for carriers providing residential local exchange service. Based on the application, it does not appear that Applicant intends to provide residential local exchange service at this time. Pursuant to D.12-12-038, Appendix A, Section II, parts a and b, basic service must be tariffed or scheduled. In the future, if Applicant decides to offer services that require a tariff or schedule, such as basic service, Applicant must submit proposed tariffs and/or user guides to the Commission’s Communications Division via Tier 2 Advice Letters using the General Order 96-B advice letter process at least 30 days before initiation of service.

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<sup>14</sup> See Application, answers 8 and 9. These certifications are required by D.13-05-035, OP 14.

<sup>15</sup> *Id.*

**8. Expected Customer Base**

Atlantis provided its estimated customer base for the first and fifth years of operation on July 6, 2023 in response the assigned ALJ's Ruling dated June 23, 2023. Therefore, Atlantis has complied with this requirement.

**9. Safety Considerations**

With the adoption of the *Safety Policy Statement of the California Pub. Util. Commission* on July 10, 2014, the Commission has, among other things, heightened its focus on the potential safety implications of every proceeding. The Commission considered the potential safety implications here and is satisfied that Atlantis will meet the Commission's minimum safety goals and expectations because: (1) Atlantis has taken steps to meet the financial requirements as set forth in this decision for a reseller of interexchange services and (2) Atlantis is a public utility that is required pursuant to Pub. Util. Code Section 451 to "... furnish and maintain such adequate, efficient, just and reasonable service, instrumentalities, equipment, and facilities, including telephone facilities ... as are necessary to promote the safety, health, comfort, and convenience of its patrons, employees, and the public."

**10. Prior Provision of Service**

Atlantis indicates that it has been operating as an interconnected VoIP provider in California since April 2021.<sup>16</sup> While the Commission may otherwise impose a penalty on a carrier's prior unlicensed provision of service, the Commission will forgo a penalty for Atlantis for its prior operations while it

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<sup>16</sup> On May 9, 2022, Atlantis submitted responses to questions which informed Commission staff that Atlantis has been offering resold interconnected VoIP services. On May 27, 2022, Atlantis submitted responses to follow up questions from Commission staff and stated that it began offering these services in April 2021. Atlantis filed confidential responses to the ALJ's March 22, 2023 ruling, which confirms this.

deliberates the licensing obligations of VoIP carriers in R.22-08-008. Atlantis is on notice that Commission decisions in R.22-08-008 may impact the licensing status of Atlantis, as well as any VoIP carriers operating in California that obtained a utility identification number under the informal VoIP registration process previously in effect under Pub. Util. Code Section 285, a registration pursuant to Util. Code Section 1013, or a Certificate of Public Convenience and Necessity pursuant to Pub. Util. Code Section 1001.

Between April 2021 and the present, Atlantis also earned intrastate revenue from customers subject to surcharge assessments. Pub. Util. Code Section 285 (Assembly Bill 841, Stats. 2011, Ch. 685), mandates that the Commission require interconnected VoIP service providers to collect and remit surcharges in support of state universal service funds in support of the following public purpose programs:

- California High-Cost Fund-A Administrative Committee Fund under Pub. Util. Code Section 275.
- California High-Cost Fund-B Administrative Committee Fund under Pub. Util. Code Section 276.
- Universal Lifeline Telephone Service Trust Administrative Committee Fund under Pub. Util. Code Section 277.
- Deaf and Disabled Telecommunications Program Administrative Committee Fund under Pub. Util. Code Section 278.
- California Teleconnect Fund Administrative Committee Fund under Pub. Util. Code Section 280.
- California Advanced Services Fund under Pub. Util. Code Section 281.<sup>17</sup>

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<sup>17</sup> Pub. Util. Code § 285(c).

Effective April 1, 2023, all telephone corporations, including VoIP carriers or providers, operating in California are required to assess, collect, and remit California's Public Purpose Program surcharges pursuant to the access line flat rate surcharge mechanism adopted in Decision 22-10-021. Surcharges apply only to public purpose program surcharges imposed on end-use customers' "place of primary use" that is located within California.<sup>18</sup>

Carriers are assessed interest at an annual rate of 10 percent accrued interest for late remittance of public purpose program surcharges owed to the Commission.<sup>19</sup>

Atlantis must remit any past-due public purpose program surcharges owed for its prior operation of intrastate, interconnected VoIP service from April 2021 to the issuance date of this decision by providing the Commission's Communication's Division with a summary of: (1) its monthly intrastate revenues from April 1, 2021 to March 31, 2023, and (2) the monthly number of active access lines from April 1, 2023 to the effective date of the decision. This information should be sent with the subject line "Surcharge Prior to CPCN Approval Per [*Insert Decision Number here, e.g. D.23-XX-XXX*], A.22-02-012" by sending one email to both [telcosurcharge@cpuc.ca.gov](mailto:telcosurcharge@cpuc.ca.gov) and [cdcompliance@cpuc.ca.gov](mailto:cdcompliance@cpuc.ca.gov), within 30 days of the issuance date of this decision.

Atlantis is subject to the obligation to pay late fees on past due surcharges. However, Atlantis' obligation to remit 10 percent interest of past-due surcharges is waived for the period following the filing date of Atlantis' application in

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<sup>18</sup> Pub. Util. Code § 285(d).

<sup>19</sup> Resolution T-17704 at 11, ("The CPUC has imposed a 10 [percent] interest payment on untimely remitted surcharges across all of its [public purpose programs] innumerable times, and has done so for retroactive periods of varying lengths.")

acknowledgement of its good faith effort to come into compliance with the Commission's requirements by requesting a registration pursuant to Pub. Util. Code Section 1013.

While providers of resold interexchange service are required to pay past-due user fees, this decision waives past-due user fees in recognition of the Commission's deliberation of licensing obligations for VoIP carriers in R.22-08-008 and D.21-03-002. Atlantis is on notice that the user fee obligations may be subject to change by determinations made in R.22-08-008 and D.21-03-002.

The Commission's Communications Division staff is authorized to calculate the past due public purpose program surcharges and late fees owed by Atlantis. Atlantis will, within 30 days of its receipt of the total amount owed for public purpose program surcharges and interest from the Commission's Communications Division, submit one cashier's check or money order payable to the California Public Utilities Commission for payment of the total amount owed either by mail or in-person delivery to: Commission's, Fiscal Office, Room 3000, 505 Van Ness Avenue, San Francisco, CA 94102. Atlantis must include a written identification stating the decision number and the application number, such as the following: "Per Decision [*enter decision number here*] of A.22-02-012." Atlantis will email the Commission's Communications Division of payment made at [telcosurcharge@cpuc.ca.gov](mailto:telcosurcharge@cpuc.ca.gov). Failure to remit past-due surcharges and interest owed within 90 days of the payment deadline will result in additional collections or enforcement action against Atlantis.

## **11. Conclusion**

Atlantis' application conforms to our rules for authority to provide resold interexchange services pursuant to Pub. Util. Code Section 1001. Accordingly, the

Commission grants Atlantis's CPCN to provide resold interexchange services in California subject to compliance with the terms and conditions set forth in the OPs.

The CPCN granted by this decision provides benefits to Atlantis and corresponding obligations. Atlantis receives authority to operate in the prescribed service territory, and this authority enables Atlantis, pursuant to Section 251 of the 1934 Communications Act, as amended by the 1996 Telecommunications Act (47 U.S.C. Section 251), to interconnect with telecommunications carriers.<sup>20</sup> This authority also enables Atlantis to obtain access to public rights-of-way in California as set forth in D.98-10-058, and approved in *T-Mobile West LLC v. City and County of San Francisco*, 6 Cal. 5<sup>th</sup> 1107 (2019)" - subject to the CEQA requirements set forth in this decision.

In return, Atlantis is obligated to comply with all Pub. Util. Code provisions, Commission rules, GOs, and decisions applicable to telephone corporations providing approved services. The applicable statutes, rules, GOs, and decisions include, but are not limited to consumer protection rules, tariffing, and reporting requirements. Moreover, Atlantis is obligated to pay all Commission prescribed user fees and public purpose program surcharges as set forth in the Appendix B of this decision, to comply with CEQA, and to adhere to Pub. Util. Code Section 451 which states that every public utility "...shall furnish and maintain such adequate, efficient, just, and reasonable service, instrumentalities, equipment, and facilities, including telephone facilities, as defined in Section 54.1 of the Civil Code, as are necessary to promote the safety, health, comfort, and convenience of its patrons, employees, and the public."

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<sup>20</sup> The California Pub. Util. Code uses the term "telephone corporation." Its counterpart in federal law is a "telecommunications carrier."

**12. Request to File Under Seal**

Pursuant to Rule 11.4 of the Commission's Rules of Practice and Procedure, Atlantis has filed motions for leave to file portions of its Responses to ALJ Rulings Directing Filing of Additional Information as confidential materials under seal. Atlantis represents that the information is sensitive, and disclosure could place Atlantis at an unfair business disadvantage. We have granted similar requests in the past and do so here.

**13. Summary of Public Comments**

Rule 1.18 allows any member of the public to submit written comment in any Commission proceeding using the "Public Comment" tab of the online Docket Card for that proceeding on the Commission's website. Rule 1.18(b) requires that relevant written comment submitted in a proceeding be summarized in the final decision issued in that proceeding. No public comments were posted to the docket card for this proceeding.

**14. Comments on Draft Decision**

The proposed decision of the Administrative Law Judge (ALJ) in this matter was mailed in accordance with Section 311 of the Pub. Util. Code and comments were allowed under Rule 14.3. No comments were received.

**15. Assignment of Proceeding**

John Reynolds is the assigned Commissioner and Patricia Miles is the assigned ALJ in this proceeding.

**Findings of Fact**

1. Atlantis is a telephone corporation and a public utility as defined in Pub. Util. Code sections 234(a) and 216(a).
2. Atlantis submitted a simplified registration pursuant to Pub. Util. Code Section 1013 as an interexchange telephone corporation. However, this was reassigned to an ALJ for evaluation under Pub. Util. Code Section 1001.

3. Atlantis will not construct any facilities.
4. Atlantis has a minimum of \$25,000 of cash or cash equivalent that is reasonably liquid and readily available to meet its start-up expenses.
5. Atlantis has sufficient additional cash or cash equivalent to cover deposits that may be required by other telephone corporations in order to provide the proposed service.
6. Atlantis management possesses sufficient experience, knowledge, and technical expertise to provide local exchange services to the public.
7. No one associated with or employed by Atlantis as an affiliate, officer, director, partner, agent, or owner (directly or indirectly) of more than 10 percent of Atlantis, or anyone acting in a management capacity for Atlantis: (a) held one of these positions with a company that filed for bankruptcy; (b) been personally found liable, or held one of these positions with a company that has been found liable, for fraud, dishonesty, failure to disclose, or misrepresentations to consumers or others; (c) been convicted of a felony; (d) been the subject of a criminal referral by judge or public agency; (e) had a telecommunications license or operating authority denied, suspended, revoked, or limited in any jurisdiction; (f) personally entered into a settlement, or held one of these positions with a company that has entered into settlement of criminal or civil claims involving violations of Section 17000 *et seq.*, Section 17200 *et seq.*, or Section 17500 *et seq.* of the California Business & Professions Code, or of any other statute, regulation, or decisional law relating to fraud, dishonesty, failure to disclose, or misrepresentations to consumers or others; (g) been found to have violated any statute, law, or rule pertaining to public utilities or other regulated industries; or (h) entered into any settlement agreements or made any voluntary



payments or agreed to any other type of monetary forfeitures in resolution of any action by any regulatory body, agency, or attorney general.

8. To the best of Atlantis' knowledge, neither Atlantis, or any affiliate, officer, director, partner, nor owner of more than 10 percent of Atlantis, or any person acting in such capacity whether or not formally appointed, is being, or has been investigated by the FCC or any law enforcement or regulatory agency for failure to comply with any law, rule or order.

9. Atlantis requested and is eligible for exemption from tariffing requirements and must observe the consumer protection rules adopted in D.98-08-031.

10. Atlantis provided an estimate of its customer base for the first and fifth year of operation.

11. Atlantis started providing interconnected VoIP service in April 2021.

12. Between April 2021 and the present, Atlantis provided VoIP service in California without a VoIP registration pursuant to Pub. Util. Code Section 285, a registration pursuant to Pub. Util. Code Section 1013, or a CPCN pursuant to Pub. Util. Section 1001.

13. Between April 2021 and the present, Atlantis earned intrastate revenue from customers subject to surcharge assessments.

14. Between April 2021 and the present, Atlantis is subject to a 10 percent accrued interest for late remittance on public purpose program surcharges.

15. Pursuant to Rule 11.4, Atlantis filed motions for leave to file confidential materials under seal, including portions of its Responses to ALJ Rulings Directing Filing of Additional Information.

**Conclusions of Law**

1. Atlantis should be granted a CPCN to provide resold interexchange services in California, subject to the terms and conditions set forth in the OPs.
2. Atlantis, once granted a CPCN, should be subject to the applicable Commission rules, decisions, GOs, and statutes that pertain to California public utilities.
3. Atlantis should be granted an exemption from the requirement to file tariffs.
4. It is reasonable to forbear from assessing penalties for Atlantis' unlicensed provision of VoIP service from April 2021 to the present while the Commission deliberates VoIP licensing requirements in R.22-08-008, with the exception of public purpose program surcharges owed and interest payments for late remittance of public purpose program surcharges accrued prior to filing an application for a registration pursuant to Pub. Util. Code Section 1013.
5. Atlantis should pay all past-due surcharges earned on its VoIP service provided between April 2021 and the present pursuant to Pub. Util. Code Section 285 and D.22-10-021.
6. Atlantis should pay 10 percent accrued interest for late remittance of public purpose program surcharges between April 1, 2021 and February 11, 2022, the filing date of Atlantis' application for a registration.
7. Atlantis should provide the Commission's Communications Division with monthly intrastate revenue or monthly active access lines for the relevant duration of the period owed using the form provided in Attachment E.
8. The Commission's Communication's Division should be authorized to calculate the amount owed by Atlantis for surcharges and accrued interest owed

using the surcharge mechanism applicable at the time the surcharge was incurred.

9. Atlantis should submit all past-due surcharges and interest owed to the Commission within 30 days of receipt of Communications Division's summary of past-due surcharges and interest owed.

10. Atlantis' motion to file under seal its responses to the ALJ Rulings Directing Filing of Additional Information application, should be granted for three years.

11. This proceeding should be closed.

## **O R D E R**

### **IT IS ORDERED** that:

1. A Certificate of Public Convenience and Necessity is granted to Atlantis Utility, Inc. to provide resold interexchange services in California, subject to the terms and conditions in this decision.

2. Atlantis Utility, Inc. must remit public purpose program surcharges owed to the Commission in accordance with the established methodology in effect at the time the surcharge was accrued, along with accrued interest on late remittance of past-due surcharges prior to the filing date of this application.

3. Within 30 days of the effective date of this decision, Atlantis Utility, Inc. (Atlantis) must provide the Commission's Communications Division with a summary of: (1) its monthly intrastate revenues from April 1, 2021 to March 31, 2023 and (2) the monthly number of active access lines from April 1, 2023 to the effective date of this decision by emailing [telcosurcharge@cpuc.ca.gov](mailto:telcosurcharge@cpuc.ca.gov) and copying [cdcompliance@cpuc.ca.gov](mailto:cdcompliance@cpuc.ca.gov) in the communication. Atlantis will provide this information by completing the form included as Attachment E.

4. The Commission's Communications Division is authorized to calculate the public purpose program surcharges owed between April 1, 2021, and the issuance date of this decision, along with any interest owed between April 1, 2021, and February 11, 2022, for late remittance of past-due surcharges prior to the filing date of this application.

5. Atlantis Utility, Inc. (Atlantis) will, within 30 days of its receipt of the total amount owed for public purpose program surcharges and interest from the Commission's Communications Division, send one cashier's check or money order for payment of the total amount owed to: California Public Utilities Commission, Fiscal Office, Room 3000, 505 Van Ness Avenue, San Francisco, CA 94102. Atlantis will inform the Commission's Communications Division that payment has been made within one day of e-mailing or otherwise submitting payment by e-mail to [telcosurcharge@cpuc.ca.gov](mailto:telcosurcharge@cpuc.ca.gov).

6. Atlantis Utility, Inc. will be subject to additional collections or enforcement action in the event it fails to pay the past-due public purpose program surcharges and interest owed within 90 days of the payment deadline.

7. Future payments of public purpose program surcharges and user fees, shall be made through the Communications Division's Telecommunications and User Fee Filing System, as provided in Attachment B.

8. The certificate granted and the authority for Atlantis Utility Inc. (Atlantis) to render service to customers under the rates, charges, and rules authorized, will expire if not exercised, by offering or actively providing service on a wholesale and/or resale basis, after 12 months from the effective date of this decision. Atlantis is responsible for seeking approval for an extension of time to comply with this decision pursuant to Rules of Practice and Procedure Rule 16.6.

9. Atlantis Utility, Inc. is assigned utility identification number U-7413-C and is responsible for using this as its corporate identification number in the caption of all original filings with this Commission, in the titles of other pleadings filed in existing cases, and informal submissions to the Commission.

10. Atlantis Utility, Inc. must file in this docket a written acceptance of the certificate granted in this proceeding within 30 days of the effective date of this decision. The written acceptance filed in this docket does not reopen the proceeding.

11. Atlantis Utility, Inc. must provide the name, address, email address, and telephone number of its designated primary regulatory/official contact person to the California Public Utilities Commission's Communications Division within five (5) days of written acceptance of its certificate. Refer to Attachment B for additional information related to updating contact information.

12. Atlantis Utility, Inc. must provide the name, address, email address, and telephone number of its designated contact person for purposes of resolving consumer complaints to the California Public Utilities Commission's Consumer Affairs Branch within five (5) days of written acceptance of its certificate. Refer to Attachment B for additional information related to updating contact information.

13. Atlantis Utility, Inc. (Atlantis) must submit a Tier-1 Advice Letter containing a copy of the license holder's executed performance bond in accordance with Decision 13-05-035 to the California Public Utilities Commission's Communications Division within five (5) business days of the effective date of this decision. Atlantis is responsible, if needed, for seeking approval for an extension of time to submit the Tier 1 Advice Letter containing a copy of the performance bond. Atlantis is responsible for ensuring that the

performance bond is active for all periods of its operations and comply with the annual performance bond filing on or before March 31 of each year. Refer to Attachment B for additional information on performance bond requirements.

14. Atlantis Utility, Inc. must submit its compliance with Public Utilities Code Section 708, Employee Identification Cards, to the California Public Utilities Commission's Director of the Communications Division, in writing, by email to [cdcompliance@cpuc.ca.gov](mailto:cdcompliance@cpuc.ca.gov), within 60 days of the effective date of this decision.

15. Atlantis Utility, Inc. is subject to California public purpose program surcharges (surcharges) and user fees; and is responsible for timely reporting and remittance of surcharges and user fees using the California Public Utilities Commission's proprietary Telecommunications and User Fee Filing System. Refer to Attachment B for additional information on surcharges and user fees requirements.

16. Atlantis Utility, Inc. is responsible for submitting an annual report in accordance with General Order 104-A to the California Public Utilities Commission's Director of the Communications Division, by email to [cdcompliance@cpuc.ca.gov](mailto:cdcompliance@cpuc.ca.gov), no later than March 31 of the year following the calendar year for which the annual report is submitted. Refer to Attachment C for additional information on annual report requirements.

17. Atlantis Utility, Inc. is responsible for submitting its annual affiliate transaction report in accordance with Decision 93-02-019 to the California Public Utilities Commission's Director of the Communications Division, by email to [cdcompliance@cpuc.ca.gov](mailto:cdcompliance@cpuc.ca.gov), no later than May 1 of the year following the calendar year for which the annual affiliate transaction report is submitted. Refer to Attachment D for additional information on annual affiliate transaction report requirements.

18. Atlantis Utility, Inc. is subject to all the current requirements applicable to competitive local exchange carriers and interexchange carriers included in Attachments B, C, and D to this decision; all Consumer Protection Rules contained in General Order 168; and all applicable California Public Utilities Commission rules, decisions, General Orders, and statutes that pertain to California public utilities on an ongoing basis.

19. Atlantis Utility Inc.'s motion to file under seal its confidential responses is granted for a period of three years after the date of this decision. During this three-year period, this information shall not be publicly disclosed except on further Commission order or Administrative Law Judge ruling. If Atlantis Utility, Inc. believes that it is necessary for this information to remain under seal for longer than three years, Atlantis Utility, Inc. may file a new motion showing good cause for extending this order by no later than 30 days before the expiration of this order.

20. Application 22-02-012 is closed.

This decision is effective today.

Dated \_\_\_\_\_, at Sacramento California.

**ATTACHMENT A**

**TARIFF DEFICIENCIES**

This Attachment is Intentionally Left Blank.

**(END OF ATTACHMENT A)**



**ATTACHMENT B****REQUIREMENTS APPLICABLE TO COMPETITIVE LOCAL EXCHANGE CARRIERS AND INTEREXCHANGE CARRIERS (Carrier)**

1. Carrier is subject to all the current applicable California Public Utilities Commission (CPUC or Commission) rules, decisions, General Orders, and statutes that pertain to California public utilities and telephone corporations on an ongoing basis.

2. Carrier is responsible for rendering services to customers under the rates, charges and rules authorized by the Commission within 12 months from the date of the decision. Rendering services may include but are not limited to offering and/or actively providing services to its customers on a wholesale and/or resale basis.

3. Carrier is responsible for keeping all contact information up to date with the Commission. Changes to its primary regulatory and/or complaint contact information must be provided electronically, using the "Contact Information Request Update" form at <https://www.cpuc.ca.gov/industries-and-topics/internet-and-phone> under Service Provider Requirements and Programs. Carrier is responsible for updating this information within 30 days of the change, or at least annually by June 1 of each calendar year.

4. Carrier is subject to California public purpose program surcharges and user fees. Pursuant to Decision (D.) 22-10-021, all telephone corporations operating in California must assess, collect, report and remit public purpose program surcharges based on the number of active access lines. For definition of access line, see Section 5.2.2 of D.22-10-021. The surcharge funds the following California public purpose programs:

- a. The Universal Lifeline Telephone Service Trust  
Administrative Committee Fund (Pub. Util. Code § 277);
- b. The California Relay Service and Communications Devices  
Fund (Pub. Util. Code § 2881; D.98-12-073);
- c. The California High Cost Fund-A (Pub. Util. Code § 275.6);  
D.96-10-066, at 3-4, App. B, Rule 1.C);
- d. The California High Cost Fund-B (Pub. Util. Code § 276.5),  
D.96-10-066, at 191, App. B, Rule 6.F.; D.07-12-054);
- e. The California Advanced Services Fund (Pub. Util. Code  
§ 281; D.07-12-054); and
- f. The California Teleconnect Fund (Pub. Util. Code § 280;  
D.96-10-066, at 88, App. B, Rule 8.G).

User Fees must be assessed and collected based on intrastate telecommunications revenues. The User Fee funds the CPUC's annual operating budget for regulating the telecommunications corporations under its jurisdiction (Pub. Util. Code §§ 431-435).

5. Carrier is responsible for obtaining guidance and directive from the Commission's Communications Division for timely reporting and remitting of public purpose program surcharges and the user fees through the Commission's proprietary Telecommunications and User Fee Filing System (TUFFS).

Additional information about telecommunications surcharges and user fees is available from the CPUC website: <https://www.cpuc.ca.gov/industries-and-topics/internet-and-phone/telecommunications-surcharges-and-user-fees>.

6. Carrier is responsible for timely and accurately reporting its number of access lines and remitting the resulting public purpose program surcharges through TUFFS even if there is zero (0) access line to report and zero (0) resulting surcharges to remit. Carriers that report and/or remit surcharge funds after the

due date will be charged a penalty equal to an annual rate of 10%. Send an email to [Telcosurcharge@cpuc.ca.gov](mailto:Telcosurcharge@cpuc.ca.gov) for questions related to surcharges and access to TUFFS. Current and historical surcharge rates can be found at <https://www.cpsc.ca.gov/industries-and-topics/internet-and-phone/telecommunications-surcharges-and-user-fees/surcharge-rates>.

7. Carrier is responsible for timely and accurately reporting and remitting the user fees based on a standard user fee remittance rate applied to the gross intrastate revenue or an annual minimum user fee of \$100, whichever is greater. The user fee remittance rate is determined annually by the Commission and posted on the Commission's webpage. The reporting and remittance of user fees must be through TUFFS within 15 days after the end of each calendar quarter (March 31, June 30 and September 30, and December 31) or January 15 due date for those paying the annual minimum user fee of \$100. TUFFS will automatically adjust the minimum user fee amount due to \$100 when the annual gross intrastate revenue is zero (\$0) or less than the annual minimum user fee of \$100. Under Pub. Util. Code section 405, carriers that are in default of reporting and submitting user fees more than 30 days after the quarterly user fee payment due dates of April 15, July 15, October 15, and January 15, or more than 30 days after the January 15 due date for those utilities paying the annual minimum user fee of \$100, will be subject to automatic penalties including suspension or revocation of their authority to operate in California. Send an email to [userfees@cpuc.ca.gov](mailto:userfees@cpuc.ca.gov) for questions related to user fees. Current and historical user fee rates can be found at <https://www.cpsc.ca.gov/industries-and-topics/internet-and-phone/telecommunications-surcharges-and-user-fees/user-fee-rates>.

8. In compliance with Resolution T-16901, December 2, 2004, Carrier is responsible for checking the joint tariff for public purpose program surcharges

and user fees filed by Pacific Bell (dba AT&T California) and apply the current public purpose program surcharges and user fees amounts in that joint tariff on end-user bills until further revised.

9. Carrier is responsible for ensuring that its tariff filings reflect all surcharges and fees to which it is subject to, as identified above.

10. If Carrier is a competitive local exchange carrier, the effectiveness of its future competitive local exchange carrier tariffs is subject to the requirements of General Order 96-B and the Telecommunications Industry Rules (D.07-09-019).

11. If Carrier is a non-dominant interexchange carrier, the effectiveness of its future non-dominant interexchange carrier tariffs is subject to the requirement of General Order 96-B and the Telecommunications Industry Rules (D.07-09-019).

12. Carrier providing competitive local exchange service is responsible for submitting a service area map as part of its initial tariff filed via Advice Letter to the Communications Division.

13. Carrier is responsible for submitting a copy of its complete tariff in use to the California Public Utilities Commission's Director of the Communications Division, by e-mail to [cdcompliance@cpuc.ca.gov](mailto:cdcompliance@cpuc.ca.gov), in compliance with Public Utilities Codes Section 489(a), no later than February 15 of each year. If Carrier is de-tariffed, it is responsible for providing an annual certification that it is granted exemption from tariff filing or is a de-tariffed carrier and identify the authorization granting such status.

14. Carrier is responsible for obtaining a performance bond of at least \$25,000 in accordance with Decision 13-05-035. Within five business days after the effective date of CPCN authority, carrier is required to submit a Tier-1 advice letter to the Director of the Communications Division with a copy of the license holder's executed bond. The performance bond must be a continuous bond (*i.e.*,

there is no termination date on the bond) issued by a corporate surety company authorized to transact surety business in California, and the Commission must be listed as the obligee on the bond. Pursuant to Decision 13-05-035, the Commission must revoke a certificate of public convenience and necessity if a carrier is more than 120 days late in providing the Communications Division a copy of its executed performance bond and the carrier has not been granted an extension of time by the Communications Division.

15. Carrier is required to submit a Tier-1 Advice Letter on an annual basis, no later than March 31 of each year, with a copy of the executed performance bond. Carrier is responsible for ensuring that its performance bond does not lapse during any period of its operation. Additional information regarding performance bond requirement is available at <https://www.cpuc.ca.gov/industries-and-topics/internet-and-phone/carrier-reporting-requirements/performance-bond-requirements>.

16. Carrier is responsible for ensuring that its employees comply with the provisions of Pub. Util. Code Section 2889.5 regarding solicitation of customers.

17. If Carrier is 90 days or more late in complying with its reporting obligations to the Commission including but not limited to filing its annual reports (e.g., Operations and Financials, and Affiliated Transaction Reports), submitting Performance Bonds, reporting and remitting surcharges and user fees; and has not received written permission from the Commission or Communications Division to file or remit late, the Communications Division may issue a citation pursuant to Resolution T-17601. Failure to comply with the issued citation or timely appeal the citation may result in a revocation of the company's operating authority and/or a referral to the Commission's Consumer Protection

and Enforcement Division (CPED) for enforcement action, which could result in additional fines, penalties, or other sanctions.

18. Carrier is exempt from Rule 3.1(b) of the Commission's Rules of Practice and Procedure.

19. Carrier is exempt from Pub. Util. Code Sections 816-830.

20. If Carrier decides to discontinue service or file for bankruptcy, it must immediately notify the California Public Utilities Commission's Director of the Communications Division, by e-mail to [cdcompliance@cpuc.ca.gov](mailto:cdcompliance@cpuc.ca.gov).

**(END OF ATTACHMENT B)**

## **ATTACHMENT C**

**ATTACHMENT C****ANNUAL REPORT**

In addition to the annual reports requirement pursuant to General Order 104-A, submit the following information electronically via email to [cdcompliance@cpuc.ca.gov](mailto:cdcompliance@cpuc.ca.gov) no later than March 31 of the year following the calendar year for which the annual report is submitted.

Failure to submit this information on time may result in a penalty as provided for in Pub. Util. Code Sections 2107 and 2108.

Required information:

1. Exact legal name and Utility ID number of the reporting utility.
2. Address of the reporting utility.
3. Name, title, address, and telephone number of the person to be contacted concerning the reported information.
4. Name and title of the officer having custody of the general books of account and the address of the office where such books are kept.
5. Type of organization (*e.g.*, corporation, partnership, sole proprietorship, etc.).

If incorporated, specify:

- a. Date of filing articles of incorporation with the Secretary of State.
  - b. State in which incorporated.
6. Number and date of the Commission decision granting the Certificate of Public Convenience and Necessity.
  7. Date operations were begun.
  8. Description of other business activities in which the utility is engaged.
  9. List of all affiliated companies and their relationship to the utility. State if affiliate is a:



- a. Regulated public utility.
  - b. Publicly held corporation.
10. Balance sheet as of December 31st of the year for which information is submitted.
  11. Income statement for California operations for the calendar year for which information is submitted.
  12. Cash Flow statement as of December 31 of the calendar year for which information is submitted, for California operations only.

Additional information about the reporting requirements is available at <https://www.cpuc.ca.gov/industries-and-topics/internet-and-phone/carrier-reporting-requirements/annual-report-forms>. For any questions concerning this report, please send an email to [cdcompliance@cpuca.ca.gov](mailto:cdcompliance@cpuca.ca.gov) with a subject line that includes: "CD Annual Reports."

**(END OF ATTACHMENT C)**

## ATTACHMENT D

**ATTACHMENT D****CALENDAR YEAR AFFILIATE TRANSACTION REPORT**

Submit the following information electronically using the Annual Affiliate Transaction Report Form<sup>21</sup> via e-mail to [cdcompliance@cpuc.ca.gov](mailto:cdcompliance@cpuc.ca.gov) no later than May 1 of the year following the calendar year for which the annual affiliate transaction report is submitted.

1. Each utility must list and provide the following information for each affiliated entity and regulated subsidiary that the utility had during the period covered by the Annual Affiliate Transaction Report.
  - Form of organization (*e.g.*, corporation, partnership, joint venture, strategic alliance, etc.);
  - Brief description of business activities engaged in;
  - Relationship to the utility (*e.g.*, controlling corporation, subsidiary, regulated subsidiary, affiliate);
  - Ownership of the utility (including type and percent ownership)
  - Voting rights held by the utility and percent; and
  - Corporate officers.
2. The utility must prepare and submit a corporate organization chart showing any and all corporate relationships between the utility and its affiliated entities and regulated subsidiaries in item #1 above. The chart must have the controlling corporation (if any) at the top of the chart, the utility and any subsidiaries and/or affiliates of the controlling corporation in the middle levels of the chart, and all secondary subsidiaries and affiliates (*e.g.*, a subsidiary that in turn is owned by another subsidiary and/or affiliate) in the lower levels. Any regulated subsidiary must be clearly noted.

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<sup>21</sup> An Annual Affiliate Report form (in PDF format) has been developed to help facilitate the submission of this reporting obligation and it is available at: [https://www.cpsc.ca.gov/-/media/cpsc-website/divisions/communications-division/documents/licensing-compliance/annual-reporting-requirements/annual-affiliate-transaction-report-form\\_.pdf](https://www.cpsc.ca.gov/-/media/cpsc-website/divisions/communications-division/documents/licensing-compliance/annual-reporting-requirements/annual-affiliate-transaction-report-form_.pdf).

3. For a utility that has individuals who are classified as “controlling corporations” of the competitive utility, the utility must only report under the requirements of item #1 and item #2 above any affiliated entity that either (a) is a public utility or (b) transacts any business with the utility filing the annual report excluding the provision of tariff services.
4. Each annual report must be signed by a corporate officer of the utility stating under penalty of perjury under the laws of the State of California (CCP 2015.5) that the annual report is complete and accurate with no material omissions.
5. Any required information, documents, or other material that a utility is unable to provide must be reasonably described and the reasons they cannot be obtained, as well as the efforts expended to obtain them, must be set forth in the utility’s Annual Affiliate Transaction Report and verified in accordance with Section I-F of Decision 93-02-019.
6. Utilities that do not have affiliated entities must submit, in lieu of the annual transaction report, an annual statement to the Commission stating that the utility had no affiliated entities during the report period. This statement must be signed by a corporate officer of the utility, stating under penalty of perjury under the laws of the State of California (CCP 2015.5) that the annual report is complete and accurate with no material omissions.

Additional information about the reporting requirements is available at <https://www.cpuc.ca.gov/industries-and-topics/internet-and-phone/carrier-reporting-requirements/annual-report-forms>. For any questions concerning this report, please send an e-mail to [cdcompliance@cpuca.ca.gov](mailto:cdcompliance@cpuca.ca.gov) with a subject line that includes: “CD Annual Reports.”

**(END OF ATTACHMENT D)**

**ATTACHMENT E**

**ATTACHMENT E**  
**SURCHARGE REPORT**

Email the following information to [telcosurcharge@cpuc.ca.gov](mailto:telcosurcharge@cpuc.ca.gov) and [cdcompliance@cpuc.ca.gov](mailto:cdcompliance@cpuc.ca.gov).

**Subject Line** should include “Surcharge Prior to CPUC CPCN Approval Per D.23-XX-XXX, A.22-02-012.”

**Body of email should include:**

Background: Carriers are obligated to pay all past-due surcharge and present pursuant to Pub. Util. Code Section 285 and D.22-10-021. A 10 percent accrued interest for late remittance of public purpose program surcharges should be paid between the date of operation without license and the date filing for the application. The Commission’s Communications Division is authorized to calculate the following:

- public purpose program surcharges owed between the date of operation without the license, and the issuance date of this CPCN decision; and
- interest owed between date operation without a license and filing date for the application.

1. Request: Please calculate the surcharge and interest owed. Below is the following information to perform the calculations: Carrier Name
2. Starting Date of Operation without License
3. Filing Date of application
4. Issuance Date of the Decision
5. Monthly Intrastate Revenue report prior to April 2023

|                  | 2020 | 2021 | 2022 | 2023 |
|------------------|------|------|------|------|
| <b>January</b>   |      |      |      |      |
| <b>February</b>  |      |      |      |      |
| <b>March</b>     |      |      |      |      |
| <b>April</b>     |      |      |      | n/a  |
| <b>May</b>       |      |      |      | n/a  |
| <b>June</b>      |      |      |      | n/a  |
| <b>July</b>      |      |      |      | n/a  |
| <b>August</b>    |      |      |      | n/a  |
| <b>September</b> |      |      |      | n/a  |
| <b>October</b>   |      |      |      | n/a  |
| <b>November</b>  |      |      |      | n/a  |
| <b>December</b>  |      |      |      | n/a  |

6. Number of Active Access Line from April 2023 to Issuance of this Decision.  
See Section 5.2.2 of D.22-10-021 for definition of access line.

|                  | 2023 |
|------------------|------|
| <b>January</b>   | n/a  |
| <b>February</b>  | n/a  |
| <b>March</b>     | n/a  |
| <b>April</b>     |      |
| <b>May</b>       |      |
| <b>June</b>      |      |
| <b>July</b>      |      |
| <b>August</b>    |      |
| <b>September</b> |      |

|                 |  |
|-----------------|--|
| <b>October</b>  |  |
| <b>November</b> |  |
| <b>December</b> |  |

**(END OF ATTACHMENT E)**